

## THE UNITED STATES PATENT AND TRADEMARK OFFICE

JFW

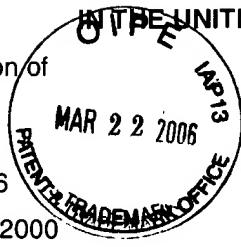
In re Patent Application of

BRISCOE et al.

Serial No. 09/674,706

Filed: November 6, 2000

Title: COMMUNICATIONS NETWORK



Atty Dkt. 36-1384

C# M#

TC/A.U. 3624

Examiner: Colbert, E.

Date: March 22, 2006

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE/AMENDMENT/LETTER**

This is a response/amendment/letter in the above-identified application and includes an attachment which is hereby incorporated by reference and the signature below serves as the signature to the attachment in the absence of any other signature thereon.

 **Correspondence Address Indication Form Attached.****Fees are attached as calculated below:**

Total effective claims after amendment	35	minus highest number	
previously paid for	38	(at least 20) =	0 x \$50.00
			\$0.00 (1202)/\$0.00 (2202) \$

Independent claims after amendment	3	minus highest number	
previously paid for	8	(at least 3) =	0 x \$200.00
			\$0.00 (1201)/\$0.00 (2201) \$

If proper multiple dependent claims now added for first time, (ignore improper); add  
\$360.00 (1203)/\$180.00 (2203) \$

Petition is hereby made to extend the current due date so as to cover the filing date of this  
paper and attachment(s)

One Month Extension	\$120.00 (1251)/\$60.00 (2251)
Two Month Extensions	\$450.00 (1252)/\$225.00 (2252)
Three Month Extensions	\$1020.00 (1253)/\$510.00 (2253)
Four Month Extensions	\$1590.00 (1254)/\$795.00 (2254)
Five Month Extensions	\$2160.00 (1255)/\$1080.00 (2255) \$

Terminal disclaimer enclosed, add  
\$130.00 (1814)/ \$65.00 (2814) \$

Applicant claims "small entity" status.  Statement filed herewith

Rule 56 Information Disclosure Statement Filing Fee  
\$180.00 (1806) \$

Assignment Recording Fee  
\$40.00 (8021) \$

Other:  
\$

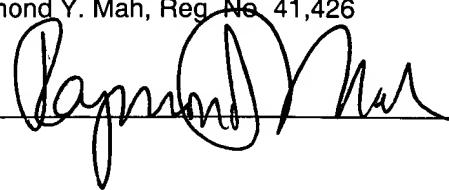
**TOTAL FEE ENCLOSED \$ 0.00**

The Commissioner is hereby authorized to charge any deficiency, or credit any overpayment, in the fee(s) filed, or asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Account No. 14-1140. A duplicate copy of this sheet is attached.

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NIXON & VANDERHYE P.C.

By Atty: Raymond Y. Mah, Reg. No. 41,426

Signature: 



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

BRISCOE et al.

Atty. Ref.: 36-1384

Serial No. 09/674,706

Group: 3624

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For: COMMUNICATIONS NETWORK

\* \* \* \* \*

March 22, 2006

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**RESPONSE**

In response to the Office Action mailed February 24, 2006, Applicant confirms its prior election of Group I (Claims 1, 4-25, 30, 32, 33 and 39-45) with traverse.

The Office Action states “the Applicant has not presented enough of a convincing argument for the record as to why claim 46 should be examined with Group I. Applicant has merely restated the Examiner’s restriction as to the ‘separate utility.’” Applicant respectfully disagrees. Applicant has restated the alleged “separate” utility of claim 46 as identified by the Office Action (“measuring each terminals amount of network resources, calculating a charge for each terminal, performing a charge for each terminal, performing sampling to check the validity of the measurement”), and has also identified explicitly recited steps of Group I (see steps (a), (b) and (c) of claim 1 of elected Group I) to provide evidence that the allegation of “separate” utility of Group II is erroneous and that the search would not result in any additional burden. Again, similar to the alleged “separate” utility of Group II, Group I requires (via independent claim 1):

*BRISCOE et al.*

*Application No. 09/674,706*

*March 22, 2006*

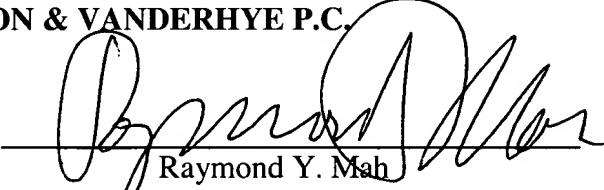
"a) measuring at each of a plurality of customer terminals usage by the respective customer terminal of network resources; b) subsequently calculating a network usage charge from the measurement data generated by step (a); and c) sampling usage of the network resources by at least one of the customer terminals by performing...." While independent claim 46 is not identical (verbatim) to claim 1 of elected Group I, independent claims 1 and 46 both relate to operating a communications network, making measurements relating to network resources at each of a plurality of customer terminals, calculating charges relating to use of network resources, and performing a sampling. Given this common subject matter, Applicant respectfully requests that claim 46 be examined along with the claims of Group I.

A prompt Office Action on the merits is respectfully solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By:



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